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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII

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EPA REGION VIII  
HEARING CLERK

Docket No. RCRA (3008)-VIII-88-03

IN THE MATTER OF )  
 )  
KOPPERS COMPANY, INC. ) MODIFICATION TO ORDER,  
 ) ACKNOWLEDGMENT OF TERMINATION,  
(Denver, Colorado) ) AND AGREEMENT TO PRESERVE RECORDS  
 )  
(EPA ID No. CODOO7077175 )

I.

MODIFICATION

1. On September 23, 1988, EPA and Koppers Company, Inc. (Respondent) filed an Administrative Order on Consent (Consent Order) in this matter.
2. The Consent Order required, inter alia, that Respondent (and its successors and assigns) perform a Facility Investigation (RFI) and a Corrective Measures Study (CMS) pursuant to §3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §6928(h), at its wood treating facility located at 5601 West Fox Street, Denver, Colorado (the Facility).
3. Through a series of corporate transactions, Beazer East, Inc. became an owner of the Facility and Koppers Inc. became an owner/operator of the Facility. Beazer is the former Koppers Company Inc. by virtue of a name change, and Koppers Inc. purchased certain assets from Koppers Company, Inc., including the "Koppers" name and the Facility. Therefore, the Consent Order became and is applicable to and binding upon both Respondent Beazer East, Inc. and Respondent Koppers Inc.
4. Section IX of the Consent Order (Corrective Measures Implementation) provides in part that:  
  
If [Respondents have] complied with the terms of this Consent Order, after selection of the corrective measure, EPA shall provide a sixty (60) day period for negotiation...of a new administrative order on consent for implementation of the corrective measure [CMI].
5. Effective July 14, 1989, EPA authorized revisions to Colorado's hazardous waste program, including corrective action. 54 Federal Register 20847 (May 15, 1989).

6. The parties acknowledge that the Colorado Department of Public Health and Environment (CDPHE), pursuant to its federally authorized hazardous waste program, now has primary regulatory authority under RCRA for addressing the implementation of corrective measures (CMI) at the Facility. CDPHE has issued STATE RCRA PERMIT # CO-99-03-05-01 to Respondents which addresses post-closure activities at the Facility.
7. Accordingly, the parties agree that there is no need for EPA and Respondents to negotiate a new Administrative Order on Consent for the CMI, and hereby modify Section IX the Consent Order to eliminate the period of negotiation for a new Consent Order addressing the CMI.

## II.

### ACKNOWLEDGMENT OF TERMINATION AND AGREEMENT TO RECORD PRESERVATION AND RESERVATION OF RIGHTS

8. The United States Environmental Protection Agency ("EPA") agrees and acknowledges that the terms of Administrative Order on Consent RCRA 3008(h)-VIII-88-03 entered into by Respondents and EPA on September 23, 1988, including any additional tasks determined by EPA to have been required pursuant to the Consent Order -- but excluding Section XII (Record Preservation) -- have been satisfactorily completed, based upon the information presently available to EPA.
9. Respondents agree and acknowledge that the terms of Section XII (Record Preservation) of the Consent Order remain in effect until August 1, 2011.
10. Respondents agree and acknowledge that its completion of the terms of the Order does not limit or otherwise preclude EPA from taking additional enforcement action pursuant to RCRA, or other available legal authorities, should EPA determine that such actions are warranted.
11. Respondents agree and acknowledge that their completion of the terms of the Order does not relieve Respondents of their obligations to comply with RCRA or any other applicable local, State, or federal laws and regulations.
12. The signatories below certify that they are authorized to bind their respective party.

IT IS SO AGREED AND ORDERED:

Date: 07/21/05 By: Robert Markwell  
Robert Markwell, Vice President  
Beazer East, Inc.

Date: 8/1/05 By: Leslie S. Hyde  
Leslie S. Hyde, Vice President  
Safety and Environmental Affairs  
Koppers, Inc.

Date: 16 August 2005 By: Sharon J Kercher  
Sharon Kercher, Director  
Technical Enforcement Program  
U.S. EPA, Region 8

Date: 16 August 2005 By: David J. Janik  
David J. Janik, Supervisor  
Legal Enforcement Program  
U.S. EPA, Region 8

IN THE MATTER OF: Koppers Company, Inc.  
Docket No.: RCRA 3008(h)-VIII-88-03

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Modification to Order, Acknowledgment of Termination, and Agreement to Maintain Records was served and filed this date as follows:

Original and one copy via hand delivery to:

Regional Hearing Clerk  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Copy via first class mail to:

Robert Markwell, Vice President  
Beazer East, Inc.  
One Oxford Center, Suite 3000  
Pittsburgh, PA 15219-6401

Leslie S. Hyde, Vice President  
Safety and Environmental Affairs  
Koppers, Inc.  
436 Seventh Avenue  
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Walter Avramenko  
Hazardous Waste Corrective Action Unit  
Compliance Program  
Hazardous Materials and Waste Management Division  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

8/18/05  
\_\_\_\_\_  
Date

*Judith McTernan*  
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Judith McTernan